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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,184	02/27/2002	Yasufumi Toyoshima	02JR-104159	4533
30764	7590	12/19/2005		EXAMINER
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP 333 SOUTH HOPE STREET 48TH FLOOR LOS ANGELES, CA 90071-1448			DAFTUAR, SAKET K	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,184	TOYOSHIMA ET AL.	
	Examiner Saket K. Daftuar	Art Unit 2151	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-35 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This action is responsive to the amendment filed on November 7th, 2005.

Claims 1-35 are further presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 26-27, and 29-34 are rejected under 35 U.S.C. 102(a) as being anticipated by Braun et al. ("Management of Quality of Service Enabled VPNs, IEEE Communication Magazine, May 2001), hereinafter Braun.

As per claim 26, Braun also discloses storing data for access by an application program being executed on a computer, comprising: a data structure stored in said memory [Examiner considers having a computer communicating to network with plurality of data inherits data stored in memory], said data structure comprising a plurality of data objects for use by said application program [Examiner considers connection database, resource database as a plurality of data objects (Page 97, Fig 5)], said plurality of data objects comprising: an asset data object comprising a physical or logical asset [source and remote address (Page 97, Column 16, line16)], a profile associated with said asset data object for describing said physical or logical asset [USER ID and

password (Page 97, Column 16, line9)], and a value comprising a measured value of said asset data object for dynamically updating said value to said application program [bandwidth requested (Page 97, Column 16, line17)].

As per claim 27, Braun discloses the limitation of said logical asset is a device selected from a group consisting of a router, switch, hub, host, server, personal computer, and gateway [different locations i.e. edge routers interior routers (Page 93, Column 7, line 5) and monitoring of network elements and pushing configuration information into all kind of networking devices (Page 93, Column 7, lines 24-26); Examiner considers router, switch, hub, host, server, personal computer and a gateway as all network devices].

As per claim 29, Braun discloses that dynamically managing a network using business information [the telecommunications industry (Page 93, Column 8 line 32)], said network comprising a network device, comprising: selecting a real time variable to be dynamically monitored based on a legal agreement [the Services Level Specification must be established (Page 91, Column 4, lines39-40], measuring said real time variable using said network element [the edge routers (Page 91, Column 4, line 43) and various domains; Examiner considers edge routers and domains as network elements], and using said measured real time variable, determining if a condition in said legal agreement is met [Security Associations (SA)(Page 91, Column 4, line 11)].

As per claims 30-31, Braun discloses said legal agreement is a Service Level Agreement (SLA) [SLA (Page 94, Column 10, line 55)] and said network is a VPN [network is a Virtual Private Network (Page 90, Column 2 lines 1-2)].

As per claim 32, Braun discloses that said dynamic sales presentation on said computer display to a customer [Examiner consider video conferencing on IP as dynamic presentation on computer display to a customer], said dynamic sales presentation, comprising a real time variable of said network [exchange variable, network packet, Page 91, Column 3 line 7)], during said presenting, updating said real time variable by measuring a network element of said network [packet encapsulation (Page 91, Column 3, line 7)], and displaying said updated real time variable to said customer.

As per claims 33-34, Braun discloses that said network is a VPN [Network is a Virtual Private Network (Page 90, Column 2 lines 1-2)] and relating said updated real time variable to cost information [provides records to pricing mechanism (Page 96, Column 14, lines 63-64)].

Response to Arguments

4. Applicant's arguments filed November 7th, 2005 have been fully considered but they are not persuasive.

As per arguments filed on November 7th, 2005, the applicants' argue in substance that:

a. As per claim 26, Applicant argues that Braun's bandwidth does not teaches a measured value of said asset data object for dynamically updating said value to said application program.

In response to applicant argument a), Braun teaches a measured value of said asset data object for dynamically updating said value to said application program [bandwidth requested (Page 97, Column 16, examiner considers requested bandwidth less than or equal to agreed traffic as a measured value of said asset data objects for dynamically updating said value to said application program)].

b. As per claim 29, an applicant argues that Braun does not have sufficient information to determine if the service level is a legal agreement.

In response to applicant arguments b), Braun teaches selecting a real time variable to be dynamically monitored based on a legal agreement [the Services Level Specification must be established (Page 91, Column 4, lines 39-47); SLS must be establish among the various DiffServ domains and these SLS control the basis for traffic conditioning actions such as shaping, policing, and remarking at the edge routers]

c. As per claim 32, an applicant argues that Braun does not teach network variables.

In response to applicant argument c), Braun teaches a real time variable of said network [exchange variable, network packet, Page 91, Column 3 line 7-

46)], during said presenting, updating said real time variable by measuring a network element of said network [packet encapsulation (Page 91, Column 3, line 7-46)].

d. As per claims 1-3, 5-11, 13-25, 28, and 35, applicant argues that for the above reasons, it is respectfully submitted that the Rejection's proffered motivation for making the *prima facie* obviousness combination of Braun and Roseman does not have a valid basis in the Braun and Roseman references themselves, or in the prior art. Because having a valid motivation is necessary to sustain an obviousness rejection

In response to applicant argument d), examiner respectfully submits the same 35 U.S.C 103(a) rejections as discussed below.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-11, 13-25, 28 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun et al. ("Management of Quality of Service Enabled VPNs", May 2001, IEEE Communications Magazine), hereinafter Braun as applied above in view of Roseman, (U.S. 5,038,318), hereinafter Roseman.

As per claim 1, Braun discloses selecting a real time variable of said network element [exchange variable, network packet (Page 91, Column, 3 line 7)] for dynamic monitoring in a cell on a spreadsheet, measuring said real time variable of said network element [packet encapsulation (Page 91, Column 3, line 7)], and using said measured real time variable [IPSec is an open and widely supported architecture for IP packet (Page 91, Column 3, lines27-28)] in said cell.

As per claim 2, Braun discloses that said real time variable is measured by polling said network element [Administration needs to posses a significant amount of information about the network's devices and various application (Page 92-93, Column 6, lines 69-70)].

As per claim 5, Braun teaches that said measured real time variable is stored in a memory [Examiner consider inherent, computer system to have memory].

As per claims 7 and 17, Braun discloses that said using said measured real time variable includes triggering a business action, when said measured real time variable satisfies a predetermined condition [The assurance component provides service status information (Page 94, Column 10, lines 45-47)].

As per claims 8 and 18, Braun discloses said business action includes a selection from a group consisting of sending an email, sending a phone message,

triggering an event in a workflow process, and any combination thereof. [Examiner considers providing status information includes messages, sending emails, and triggering an event in a workflow process].

As per claim 9, Braun discloses said predetermined condition is exceeding a predetermined threshold [Service Level Specification must be established among the various DiffServ domains. (Page 91, Column 4, lines 38-40)].

As per claims 11, 13-14 and 22, Braun discloses network element is part of a Virtual Private Network (VPN) connection [Virtual private network (VPN) Page 90, Column 2 line 1], a displaying a status of a network link associated with said network element [DifServ domains is a customer network where packets are classified and processed by traffic conditioners (Page 91, Column 4, lines 35-40, Fig 1) Examiner consider traffic conditioner includes, hardware platform with displaying monitor], network link is a VPN link. [Network link is a VPN link, Page 91, Fig 1], and in addition, Braun discloses that said network element is part of Virtual Private Network [VPN (Page 90, Column 2 lines 1-2)].

As per claim 19, Braun discloses a server system for managing a network device, wherein said server system is connected to a client computer executing software in an Internet browser [The element management deals with processes concerning single devices in the network (servers, routers, switches etc) (VPN, Column

9, lines 23-25)], a data monitor module for periodically monitoring said measurable variable [SNMP allows monitoring of network elements (Page 93, Column 7, line 23)]; and a live update module for sending changes to said measurable variable to said software [all broken device-specific networking functions outlined from Management Information Base (Page 93, Column 7, lines 23-33)].

As per claim 20, Braun discloses that said measurable variable comprises polling a MIB of said network element by using SNMP [SNMP allows monitoring of network elements. For periodically monitoring the services, all broken device-specific networking functions outlined from Management Information Base (Page 93, Column 7, lines 23-33)].

As per claim 35, Braun discloses a system for managing a network comprising a network element, comprising: means for selecting a real time variable of said network element, [exchange variable, network packet (Page 91, Column 3 line 7)] and means for measuring said real time variable of said network element [packet encapsulation (Page 91, Column 3, line 7)].

Braun fails to disclose that said software stored in a computer readable medium , said server system comprising: a network interface for receiving from said software a request to monitor a measurable variable of said network element. Braun also fails to disclose a spreadsheet and displaying real time variable in said cell.

Roseman teaches that said software stored in a computer readable medium [ROM memory, the messages received in the interface circuit card, network card, to respective memory locations (Column 4 lines, 9-10)]. Roseman also teaches real time variable for dynamic monitoring in a cell or spreadsheet and displaying real time variable in said cell [Custom programs obtain stated information from the PLCs as it occurs and sends control information in response to changes in the status information (Column 2, lines 45-48)].

As per claim 3, Roseman teaches that said measured real time variable includes displaying said measured real time variable in said cell [The general purpose spreadsheet program causes a spreadsheet to be displayed on the visual display (Column 4 lines, 53-56)].

As per claim 6, Roseman teaches that said measured real time variable is sent to said cell only if said measured real time variable changes [PLC registers (indicating changes) to transmit the control information contained in certain addressed registers directly into that cell or relatively addressed cells in the displayed spreadsheet (Roseman Column 3, lines 58-61)].

As per claims 10 and 15-16, Roseman teaches displaying real time data from a network element on a display at a client computer [The general purpose spreadsheet program causes a spreadsheet to be displayed on the visual display (Column 4 lines,

53-56)], said client computer connected to a server via a public communications network, said method comprising: displaying on said display a spreadsheet comprising a plurality of cells, assigning a real time variable to a cell of said plurality of cells, wherein said real time variable is measured from said network element, [Configuring a programmable logic controller (PLC) network with a central control of the manufacturing operation from a spreadsheet program operating in a personal computer (Column 3 lines 43-45). Examiner considers configuring a PLC network as a public communication network], receiving a dynamic update of said real time variable via said server, and displaying said dynamic update in said spreadsheet [Write commands in cells in the displayed spreadsheet to transfer information contained in that cell or information contained in relatively addressed cells to be written into desired and addressed PLC registers. Then, PLC to transmit the control information contained in certain addressed registers directly into that cell or relatively addressed cells in the displayed spreadsheet (Roseman Column 3, lines 52-61) Examiner considers PLC is an interactive media from the server connected to Personal computer, Examiner considers writing information or transferring information at desired location as combining static and dynamic updated data].

As per claim 21, Roseman teaches that said software comprises a spreadsheet program [the user then exercises spreadsheet, program through the information acquisition program (Roseman Column 3, lines 5-8)].

As per claims 23-25, Roseman teaches an asset database [the user then exercises data base program through the information acquisition program (Roseman Column 3, lines 5-8)], said network element is associated with an asset object of said asset database [the user then exercises data analysis program through the information acquisition program (Roseman Column 3, lines 5-8)], and said asset database is an objected oriented database, relational database, or a combination thereof [the user then exercises spreadsheet, data base or data analysis program through the information acquisition program (Roseman Column 3, lines 5-8)]. Examiner considers spreadsheet as an object oriented database and data base analysis as relational database].

As per claim 28, Roseman teaches that said application program is a spreadsheet program [the user then exercises spreadsheet, program through the information acquisition program (Roseman Column 3, lines 5-8)].

As per claim 35, Roseman teaches real time variable is dynamically monitored in a cell on a spreadsheet and means for using said measured real time variable in said cell [PLC to transmit the control information contained in certain addressed registers directly into that cell or relatively addressed cells in the displayed spreadsheet (Column 3, lines 52-61)].

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide the VPN of Braun with spreadsheet as taught by Roseman, in order to efficiently manage the network data.

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7. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun as modified as applied to claims 1 and 10 above, in further view of Robert Barr ("USING GRAPHS TO EXPLORE DATABASES AND CREATE REPORTS," SIGCHI Bulleting, July 1990, Pages 24-27), hereinafter Barr.

As per claims 4 and 12, Braun, as modified, fails to disclose that said measured real time variable is displayed as part of a graph.

Barr teaches the limitation of said measured real time variable is displayed as part of a graph [Column 4, lines 18-2, Page 25].

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide the VPN of Braun with a graph as taught by Barr, in order to represent the data visually which makes it more user friendly.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See accompanying P.T.O 892.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Saket K. Daftuar** whose telephone number is **571-272-8363**. The examiner can normally be reached on **8:30am-5:00pm M-F**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Zarni Maung** can be reached on **571-272-3939**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKD
December 09, 2005


ZARNI MAUNG
SUPervisory Patent Examiner